

Town of Amherst  
Zoning Board of Appeals - Special Permit  
*DECISION*

**Applicants and Owners:** Gary Glenn (for Newman Catholic Center)  
472 North Pleasant Street, Amherst, MA 01002

**Date Application filed with the Town Clerk:** February 22, 2007

**Nature of request:** Petitioner seeks a Special Permit under Sections 3.353 and 9.22 of the Zoning Bylaw to add coin-operated amusement devices.

**Location of property:** 472 North Pleasant Street, Map 11A, Parcel 22, 23 and 86, R-F Zone.

**Legal notice:** Published in the Daily Hampshire Gazette on February 27 and March 6, 2007, and sent to abutters on February 28, 2007.

**Board members:** Tom Simpson, Barbara Ford and Jane Ashby

**Submissions:**

The applicants submitted the following documents:

- A Management Plan;
- A Floor Plan of the basement/cafeteria area.

**Site Visit:** March 12, 2007

At the site visit the Board was met by the manager of the cafeteria food service, Jason Wonsey. The Board observed the following:

- The location of the Newman Catholic Center at the intersection of Massachusetts Avenue and North Pleasant Street at the southeast entrance to the University of Massachusetts, adjacent to the UMass campus and a fraternity house;
- The site which is almost entirely covered by the Newman Center building and parking lot;
- The cafeteria in the basement of the Center, including the food service area and dining area at the front of the basement and the lounge area at the rear of the basement;
- The proposed locations of the pool tables and game machines;
- The existing ping pong tables, foosball table, large, wall-mounted, flat-screen television and couches.

**Public Hearing:** March 13, 2007

Gary Glenn, operator of the cafeteria, presented the petition for the Newman Center. He made the following comments:

- He leases the cafeteria from the Newman Center and operates the food service;
- The Center would like to install coin-operated amusement devices in the rear of the downstairs area;
- They are planning to install two (2) coin-operated pool tables and two (2) game machines, probably pinball and a video game;
- There are three (3) ping pong tables and one (1) foosball table there already, but these are not coin-operated; the ping pong tables are owned by the UMass ping pong team.

Ms. Ford asked how many devices the Newman Center was planning to install and what the size of these devices would be. Mr. Glenn stated that one of the devices might be as tall as a soft drink machine and that the pool tables are about eight (8) feet long.

Ms. Ford asked about other activities that occur in the space at the rear of the basement. Mr. Glenn stated that students use this space primarily for entertainment and studying. They conduct study groups, eat and watch TV in this space. The students are usually seated when they are in this area. He added that most of the study groups use the cafeteria tables, located in the middle of the basement, for studying. He stated that the Newman Center cafeteria provides a safe, alcohol-free place for students to go. They are UMass students, not high school students. The proceeds of the coin-operated devices will go to the Newman Center, not to the cafeteria.

Ms. Ashby asked Mr. Glenn to specify the number of amusement devices that would be in the basement area. Mr. Simpson noted that six (6) or more amusement devices would constitute an arcade under Section 3.353 and arcades are not allowed in the R-F Zone.

The Board discussed whether ping pong tables should count as amusement devices under Section 3.353 of the Bylaw. There was extensive discussion about the interpretation of Section 12.01, the definition of amusement devices, and whether ping pong tables were included in this definition.

The Board determined that the Bylaw used the words “mechanical or electronic” to describe amusement devices in Section 12.01. They noted that the Board is authorized to interpret the Bylaw and that, although Section 12.01 is not as clearly written as it might be, the Board would interpret the definition to include those devices which are mechanical or electronic, including coin-operated devices, and not those that are manual and/or not coin-operated (such as ping pong tables). They noted that the Bylaw needs to be clarified with regard to the definition of “amusement devices”. Ms. Ashby offered to draft an amendment to this Section of the Zoning Bylaw.

Ms. Ford asked about the locations for the new amusement devices and whether these locations would be permanent. Mr. Glenn stated that the new devices will be located in the lower, or rear, half of the basement. However, he stated that the devices might be moved from time to time. (Christine Brestrup of the Planning Department noted that on Sundays this portion of the basement is often used by the Sunday school classes. When this occurs, tables and chairs are set up in the rear portion of the basement.)

Mr. Simpson asked about noise management and whether the amusement devices would attract a crowd. He asked whether or not the employees were trained to manage unruly customers. Mr. Glen stated that there was never a crowd because the building is a church. He made the following statements with regard to the hours of operation:

- During the school year the cafeteria is open as follows:
  - 7:00 a.m. to 8:00 p.m. Monday through Thursday
  - 7:00 a.m. to 5:00 p.m. on Friday
  - 8:00 a.m. to 2:00 p.m. on Saturday and Sunday.
- During the summer months the cafeteria is open from 8:00 a.m. to 2:00 p.m. Monday through Friday.
- The building is open from 8:00 a.m. to 11:00 p.m.

Mr. Glenn stated that the Newman Center is flexible with regard to the number of amusement devices that they wish to install. The Newman Center would rather not remove the ping pong tables. They would be happy to abide by a limit of five (5) amusement devices exclusive of the ping pong tables.

Ms. Ashby MOVED to close the evidentiary portion of the public hearing. Mr. Simpson SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

### **Public Meeting – Discussion**

At the public meeting the Board discussed the conditions that they would impose if they granted the petition. The Board also discussed its findings.

### **Public Meeting – Findings:**

Under Zoning Bylaw Section 10.38 the Board found that:

- 10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the building is located in the R-F Zone and is adjacent to the University.
- 10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the number of coin-operated amusement devices will be limited to five (5), the hours of operation are limited, there are no close neighbors and the basement/cafeteria space is controlled by the church.
- 10.383 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because the change in use will be entirely indoors.
- 10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the amusement devices will be installed in a large, well-lit room.
- 10.389 - The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because there is no waste generated by the use.
- 10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because the Bylaw allows up to five (5) amusement devices without the site becoming an arcade, and for the reasons enumerated above.

### **Public Meeting – Zoning Board Decision**

Mr. Simpson MOVED to approve the application with conditions. Ms. Ashby SECONDED the motion.

For all the reasons stated above the Board VOTED unanimously to grant a Special Permit with conditions, under Sections 3.353 and 9.22 of the Zoning Bylaw to add coin-operated amusement devices, as applied for by Gary Glenn for the Newman Catholic Center, at 472 North Pleasant Street (Map 11A, Parcels 22, 23 and 86, R-F Zone).

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THOMAS SIMPSON

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BARBARA FORD

\_\_\_\_\_  
JANE ASHBY

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2007 at \_\_\_\_\_,

in the office of the Amherst Town Clerk \_\_\_\_\_.  
 TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2007.  
 NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2007  
 to the attached list of addresses by \_\_\_\_\_, for the Board.  
 NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
 in the Hampshire County Registry of Deeds.

Town of Amherst  
Zoning Board of Appeals

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit, under Sections 3.353 and 9.22 of the Zoning Bylaw, to add coin-operated amusement devices, as applied for by Gary Glenn for the Newman Center, at 472 North Pleasant Street (Map 11A, Parcels 22, 23 and 86, R-F Zone) with the following conditions:

1. The maximum number of amusement devices, as defined by Section 12.01 of the Zoning Bylaw, shall be five (5), in addition to the three (3) existing ping pong tables.
2. The applicant shall submit a Management Plan to the Board for review and approval at a public meeting two (2) years from the date of filing of this Special Permit with the Town Clerk.

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THOMAS SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE